

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application Of:)	Intra-Osseous Implant
)	
Christiaan Michiel Ten Bruggenkate)	
)	Examiner: Heidi Marie Eide
Serial No.: 10/562,387)	
)	
Filed: May 11, 2006)	Art Unit: 3732

APPELLANT'S REPLY BRIEF

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This is in reply to the Examiner's answer mailed June 16, 2011.

The Examiner's answer is generally a restatement of the final rejection. The answer includes a response to arguments beginning on page 8.

Applicant will not repeat the arguments raised in Appellant's Appeal Brief, but rather will address two primary issues raised in the Examiner's response.

Much of the discussion in the answer relates to consideration of the word "longitudinal" in the claims. The claims specify that grooves extend in a longitudinal direction and specify that retention elements allow placement of the implant in a longitudinal direction into the bone but prevent removal of the implant in opposite longitudinal direction out of the bone. The application

characterizes the term longitudinal with its common meaning which results in a linear path of movement in the context of the use of the claimed device.

The Examiner references applicant's specification at page 3, lines 1-4 and lines 6-20 as allegedly providing a different meaning to the word longitudinal. There is no support for the argument made by the Examiner. Lines 1-4 essentially repeat the wording from the claim with respect to placement in the longitudinal direction and for preventing removal in the opposite longitudinal direction. The portion at lines 6-20 does not provide a contrary to the meaning to the word "longitudinal". This passage discusses that quick and accurate placement can be made by tapping or pushing the implant into position. This is a description of longitudinal placement. The retention elements act to prevent removal in the opposite longitudinal direction. However, as described therein, the retention elements, while preventing removal in the longitudinal direction, also form thread parts so that the implant can be repositioned by a rotational movement. Indeed, removal is enabled by a threading action, but not by a longitudinal movement. Particularly, the claim does not specify that the retention elements prevent removal using a rotational movement, but rather specify that the retention elements prevent removal in a longitudinal direction, i.e., straight out, of the bone.

The Münch reference provides for placement and removal in the bone using a rotational threading action. The screw threads function as screw threads in which rotation is used to place the implant in the bone and remove it from the bone. The Examiner characterizes the placement by Münch as longitudinal as the screw threads draw the implant into the bone such that there is a longitudinal component to the movement. However, to the extent that one would consider the

threading action to provide a component of longitudinal movement, the unthreading action would similarly have a component of longitudinal movement. The claims specify that the retention elements allow placement in the longitudinal direction into the bone but prevent the removal of the implant in the opposite longitudinal direction out of the bone. The implant in Münch does not have any structure providing such a function. The Münch implant can be threaded into and out of the bone. The threading out is in the opposite direction of threading in. It is disingenuous to consider the rotational movement as longitudinal placement but then characterizes the “opposite” removal direction as linear. The only movements that can be categorized as opposite in Münch are rotational or threading movement in and rotational or threading movement out. Enabling moving in a straight line in, but preventing removal in a straight line out, which is what is recited in the claim, is not disclosed or suggested in any of the cited references.


Moreover, the claims specify that the retention elements are provided with a profile exhibiting a shallow slope toward the apical side and a steep slope on the cervical side. The Examiner takes the position that Münch discloses a steep and a shallow slope. Applicant disagrees. However, the position taken by the Examiner ignores the fact that the claim also recites that the steep slope on the cervical side provides structure that causes the thread parts to serve as retention elements. The screw threads of Münch do not have similar structure and do not serve as retention elements. Particularly, the screw threads in Münch do not allow placement in a longitudinal direction but prevent removal of the implant in the opposite longitudinal direction, as discussed above. Moreover, the relevant figures in Münch show an angled side wall, see Fig. 5

on page 6 of Appellant's Appeal Brief, that is wider than most of the threads. It would not serve the purpose as argued by the Examiner.

For the above reasons, as well as the reasons outlined in Appellant's Appeal Brief, the rejection ought be reversed.

Respectfully submitted,

Dated: August 15, 2011

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